

REMARKS/ARGUMENTS

Reconsideration of this application is requested. Claims 9-12, 15 and 16 remain in the application of which claim 15 is withdrawn from consideration as directed to non-elected subject matter.

In item 1 of the Official Action, the examiner comments that in order for process claims to be rejoined with allowed product claims, the process claims must depend from or otherwise include all the limitations of an allowable product claim. This is the case process claim 15 depends from product claim 9 which applicants believe to be allowable, particularly in view of the information contained with this submission. Applicants again maintain that claim 15 should be rejoined once product claim 9 is allowed. Reconsideration is requested.

In item 3 of the Official Action, the examiner questions the meaning of the phrase "based on whole Fe" as used in claims 9, 10 and 12 (presumably claim 16 was intended as well and it has also been amended as discussed below). The terminology used in these claims is intended to refer to the entire content of Fe present in the described and claimed spindle-shaped magnetic metal particles. The involved claims are above amended to replace "whole" with --total-- which is commonly used in this art. As evidence of this see the two Kurokawa et al U.S. patents 6,048,412 and 6,183,868 as well as Okinaka (the senior inventor herein) 6,391,450 cited by the examiner himself in the Official Action of July 28, 2003 (paper no. 9).

Further, the term "total" is consistent with the dictionary definition of "whole" and in fact is listed as a synonym for "whole"; *see* the attached print from the Merriam-Webster 2003 Dictionary.

Accordingly, the claims as above amended resolve the examiner's concerns as to lack of clarity in a manner consistent with general understanding in this art for reasons and evidence by the information discussed above. Reconsideration is requested.

Claims 9-12 and 16 are rejected as being unpatentable over Mr. Okinaka's published European application 0940369¹. Mr. Kenji Okinaka is the sole inventor identified in the published European application and is the senior inventor in respect of the present application. Accordingly, he is well qualified to comment on the claims of the present application as well as the content of the published European patent document to which the examiner refers. Mr. Okinaka's comments are presented in the form of his evidentiary declaration made July 12, 2004 and is attached hereto.

In addition to advancing the rejection based upon the Okinaka EP document, the examiner goes on, see page 4, to describe the manner in which the reference is applied and then on pages 5 and 6 responds to the arguments made in the response of December 17, 2003. A number of questions are posed and applicants are pleased to be able to be in a position to respond to the examiner's questions and comments. Their response takes the form of Mr. Okinaka's declaration attached hereto. The attached declaration addresses a number of the examiner's points and provides information in support of these responses.

Mr. Okinaka demonstrates and explains the spindle-shaped iron-based alloy particles of the Reference Examples 1 to 6 have the atomic ratios of Al to Co of 0.4 to 1.0, which are out of the range of applicants' claims and that the coercive forces of such spindle-shaped iron-based alloy particles of the Reference Examples 1 to 3 is 1921 to 2274 Oe, again being out of the range of the present invention. In addition, the spindle-shaped iron-based alloy particles of the Reference Examples 4 to 6 have an aspect ratios of 4.0:1 to 4.4:1 and an oxidation stability of saturation magnetization ($\Delta\sigma_s$) of 12.6 to 16.3, which are out of the range of applicants' claims.

For the above reasons it is respectfully submitted that claims 9-12 and 16 are in proper formal order and are in condition for allowance.

¹ The examiner will note that the particles described and claimed in the cited application refer to calculations "based on the total amount of Fe"; see claim 1, for instance.

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The allowance of these product claims together with rejoining process claim 15 are solicited.

If the examiner requires further information or documentation, please contact the undersigned by telephone.

Respectfully submitted,

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Main Entry: 1whole
Pronunciation: 'hōl
Function: *adjective*
Etymology: Middle English *hool* healthy, unhurt, entire, from Old English *hāl*; akin to Old High German *heil* healthy, unhurt, Old Norse *heill*, Old Church Slavic *celŭ*
Date: before 12th century

1 a (1) : free of wound or injury : UNHURT (2) : recovered from a wound or injury : RESTORED (3) : being healed <whole of an ancient evil, I sleep sound — A. E. Housman> b : free of defect or impairment : INTACT c : physically sound and healthy : free of disease or deformity d : mentally or emotionally sound
2 : having all its proper parts or components : COMPLETE, UNMODIFIED <whole milk> <a whole egg>
3 a : constituting the total sum or undiminished entirety : ENTIRE <owns the whole island> b : each or all of the <took part in the whole series of athletic events>
4 a : constituting an undivided unit : UNBROKEN, UNCUT <a whole roast suckling pig> b : directed to one end : CONCENTRATED <promised to give it his whole attention>
5 a : seemingly complete or total <the whole idea is to help, not hinder> b : very great in quantity, extent, or scope <feels a whole lot better now>
6 : constituting the entirety of a person's nature or development <educate the whole student>
7 : having the same father and mother <whole brother>

synonyms see PERFECT

—whole-ness *noun*

synonyms WHOLE, ENTIRE, TOTAL, ALL mean including everything or everyone without exception. WHOLE implies that nothing has been omitted, ignored, abated, or taken away <read the whole book>. ENTIRE may suggest a state of completeness or perfection to which nothing can be added <the entire population was wiped out>. TOTAL implies that everything has been counted, weighed, measured, or considered <the total number of people present>. ALL may equal WHOLE, ENTIRE, or TOTAL <all proceeds go to charity>.